

Suit Is Result Of Family Row, Gould Replies

George J., Defendant, Says Animus Exists Because of His Opposition to Anna's Second Marriage

House Was Divided

Trustee and Helen Were Arrayed Against Frank and Anna, He Declares

Additional affidavits, on file in the Supreme Court yesterday, contain more details of the differences existing among the children of Jay Gould and emphasized a personal element that didn't appear in those quoted before in the proceeding brought by Frank J. Gould to have his brother, George J. Gould, ousted as trustee of the estate of their father.

They tell some of the differences that led up to the present division of the family of the great financier with George J., Edwin and Mrs. Helen Gould Shepard on one side and Frank and Anna, Duchess of Tallyrand, on the other, with Howard apparently neutral. Also these documents set forth more fully George J. Gould's side.

Action Called Animus

The Duchess de Tallyrand has joined with Frank in asking that George J. be removed by the court from the trusteeship. The affidavits reveal, too, the opposition of Brother George and Mrs. Shepard to the second marriage of their sister.

In reply George J. Gould says that the action is the result of personal animus.

"My sister Anna," he says, "has long been unfriendly toward me. Her state of mind is explained by the following features:

"In 1896 she complained of investments by Helen and myself as her guardians. These investments were made in accordance with our father's desire to lend aid to the Missouri Pacific system. We charged her nothing for services. She later executed full releases to us as guardians.

"She at one time, with Frank Gould, threatened suit against the executors unless they would forthwith distribute to the life tenants interest on the International and Great Northern loan, which the executors withheld because of certain questions raised by her. She and Frank forced the distribution, of which the guardian chosen for her children now complains.

Second Marriage Opposed

"My opposition and that of my sister, Helen, to Anna's second marriage aroused in her a bitter feeling. She employed counsel and caused a complaint to be prepared as a basis of a suit to test the validity and application of the seventh paragraph of the second codicil of our father's will. These proceedings ended because we finally gave our formal consent to her proposed remarriage.

"After the beginning of this suit, and before my examination began, I understand Anna expressed her purpose to array herself against me. She and Frank refused to accept my guardianship suggested for their children in 1916, when the suit was filed, there was no indication that it would be other than a friendly accounting to get the estate operations, which have been covered by yearly settlements, in permanent shape by this court accounting."

The Duchess de Tallyrand, through Philip L. Mills, in a petition, says in her petition that a large loss resulted to the estate by the acquisition of 2,500 shares of preferred and 5,000 common shares of the Denver & Rio Grande Railroad for \$932,500.

"Gambled for Big Stakes"

"This is one of the largest number of investments," says the affidavit filed in behalf of the duchess, "totalling millions, to which, through the efforts of George J. Gould, the trustees committed the funds of the estate, which were directly or indirectly connected with an endeavor, which resulted in disaster, to build up around the Missouri Pacific and its subsidiary roads a great transcontinental system extending from the Atlantic to the Pacific."

"Their stocks have been of a highly speculative character, subject to excessive market fluctuations, and either non-dividend or uncertain dividend paying. He knew this to be a fact, and in pursuit of his grandiose scheme of transcontinental expansion, of which George J. Gould was the prime mover, the trustees committed the funds of the estate to enormous amounts. Patently they ran the risk of disastrous failure, however alluring may have seemed the rewards of their success.

Investment Called Negligence

"The project was known to George J. Gould to be a hazardous gamble for great stakes, requiring for success and consummation exceptional executive and financial ability, the power to secure and hold the backing of great financial interests, and unremitting vigilance, adroitness and resourcefulness in meeting the opposition of competitors and, in addition thereto, the favor of fortune. The investment of the funds in this project was gross negligence, unlawful and in manifest abuse of the powers and discretions of the trustees."

As to the qualities referred to by his sister in the foregoing statement, Mr. Gould says he felt much pride over "the esteem in which my mother held me after twelve years of close daily observation." He quotes from two letters from Jay Gould, "a great these, dated March 18, 1892, the year Jay Gould died, read, 'My dear son: Do not work hard. Take plenty of air. I dare not think what would happen if anything went wrong with you. So, my dear boy, for my sake, comply with the foregoing.'

Tries to Justify Investment

George J. Gould in his affidavit undertakes to justify the purchase of the Denver and Rio Grande control in behalf of the Missouri Pacific. He denies that it was part of a transcontinental scheme.

"The welfare of the Missouri Pacific seemed to demand it," says the affidavit. "Had the estate not owned the Missouri Pacific and its allied lines it would not have been investing in railroad stock. The Missouri Pacific was an inherited condition and not a theory. It represented too great a property interest to the estate to be jettisoned casually in the course of

administration. Able business men, including John D. Rockefeller and his counselors, were of the opinion that the acquisition of the Denver control was wise and prudent action in behalf of the Missouri Pacific.

"While the transcontinental control was urged by bankers and through newspapers it was not the moving consideration for Denver control which was to build up the Missouri Pacific business. No hazardous gamble was designed by the persons who counselled Mr. Rockefeller and the executors to secure the D. & R. G. control.

"Mrs. Shepard Knew Business" "I have no doubt that Mr. Rockefeller's action was with an eye single to the benefit of the M. P. and quite apart from the idea of a transcontinental line, and I know that the action of my brothers and myself was prompted by the same reasoning."

Answering allegations by Frank Gould that his sister, Mrs. Shepard, knew little about her father's railroad interests and did not understand George's handling of them, Mr. Gould quoted from a letter written by Mrs. Shepard after a trip over the Gould railroad properties. "I send you a few suggestions which I gathered on the Western trip in July," she wrote. "With the great competition in railroading, I presume it advisable to do as much as possible to diminish operating expenses in the way of lessening grades and having good equipment. It would seem a pity to have the Missouri Pacific relegated to a second place, would it not?"

Mrs. Shepard inclosed a memorandum suggesting a number of extensions and branch lines, with ideas for the purchase of competing lines and the building of new depots in three cities. Further understanding and interest by Mrs. Shepard is shown in this letter to her sister Anna, written in 1896.

"George has let me know that you feel dissatisfied with our conduct as guardians and particularly that some of your money should be used in protecting the property in which you hold so large a financial interest. My dear sister, I do not think you fully realize the conditions. Not only was it our father's desire that we stand by the properties that he had built, but the loss to you, as well as to ourselves, would be very great if we should not sustain our interest in these bad times. The last three years have been unusually hard on railroad properties and many have been forced into the hands of receivers because of insufficient backing."

George wrote the Duchess de Tallyrand in 1914, in part: "Some weeks ago the railroad situation was looking so uncertain that Ed and I, in consultation with Howard, decided to sell the Missouri Pacific stock held by the estate and have all go except one share. It looks as if we might drift into receivership, and if the road does there is no telling where the stock might go to. As we stand now we are the biggest creditor and can afford to take chances with the rest. I don't think Helen approved, and I know she did not like the way the sale was made. She thinks Mrs. Sage and the others should have been taken in, but that was impossible."

Mr. Gould says in his affidavit, "The business of the estate may be likened to that of a department store. Some of the departments show losses, but their continuance is nevertheless necessary to insure success of the whole. The executors could not wait to finish one part of a general project before starting another. Had this been done competitors would have sensed the ultimate object and by blocking one phase the whole plan might have been destroyed. This throws light on many transactions which, standing alone, might, as Mr. Walker (attorney for Frank Gould) has asserted, seem to involve questionable investments of funds."

Any amounts he came to owe the estate, says Mr. Gould, were paid in full. He says that for several years prior to the financial panic of 1907 he owed the estate nothing. "I stood between the roads and the estate," he says, "bearing a large personal risk."

"I often asked my brothers and Helen to assist me in the support of the roads, but they were unable to do so at the time," he continues. "Edwin needed all his ready cash to support the Southwestern and the Bowling Green Trust Company, which he did. Howard was improving a large estate on Long Island. Frank was interested in racing. Helen was interested in her charities and Anna's income tied up by her creditors. They were in no position to help out with their individual funds. The burden fell wholly upon me."

My co-executors knew this and also how I came to owe the estate from time to time, and, because thereof, they made no demands upon me of any kind. They then appreciated the situation, but time has caused some of them to forget. My personal fortune was such that I could always have settled with the estate at any time."

Stecher Beats Zbyszko, World's Mat Champion

Victor Used Body Scissors and Bar Arm Holds; Won in 1:45:15

LOUISVILLE, May 9.—Joe Stecher, of Nebraska, defeated Wladek Zbyszko, of Poland, world champion wrestler, here to-night in 1:45:15.

Stecher used the body scissors and bar arm holds.

President Stays Death Sentence of 4 Soldiers

WASHINGTON, May 9.—Commutation of death sentences ordered by courts martial was announced to-day by the War Department in four cases.

Private Richard L. Stierheim, of the 7th Division, who was found guilty of deserting from Company D, 315th Infantry, when the organization was about to face the enemy, was restored to duty for bravery in action. While being taken to the front as a prisoner Stierheim volunteered to go out at night to rescue wounded men.

Private Julius Cresce, Quartermaster Corps, found guilty of being absent without leave and disobedience of orders, was sentenced to death by court-martial. The President reduced this penalty to two years confinement at Fort Jay.

Private James Workoff, of the 349th Machine Gun Battalion, was found guilty of murdering Private William R. Ripley. The recommendation of Major General Ballou, the reviewing authority, to reduce the sentence to twenty-five years imprisonment was approved by the President. Death sentence imposed on Private Henry L. Jackson, Battery C, 350th Field Artillery, who shot and killed George Deskin, was commuted to fifteen years imprisonment by the President.

Last of the Old 69th Will Quit Mills To-day

CAMP MILLS, L. I., May 9.—The last official detachments of the 168th Infantry, the old 69th Regiment of New York, were scheduled to leave to-day for Camp Funston, Dodge and Grant, where they will be discharged. There are ten officers and 216 men in the detachments. Regimental headquarters has been closed.

Of the 168th there will remain here only a few men who overstayed leave and missed their trains for the demobilization camps. Each must stay until another contingent is going to the camp to which he is assigned.

Last of 77th Gets Discharge Papers To-day

10,700 Argonne Veterans, Released From Service, Return to City to Begin Onslaught for Jobs

Many to Go It Alone

Officers Cheered as Men Hurry to the Trains in Droves, Eager for Multi

CAMP UPTON, N. Y., May 9.—With cries of "Finis la guerre," and with their last army pay clutched in their fists, 10,714 discharged members of the 77th Division left here to-day for industrial warfare in the city. Scores of the men declared just before leaving that they intend to win a comfortable living by commercial onslaughts, rivaling in energy and determination those which took them through the Argonne.

Records for rapid demobilization were broken in the discharge of the men. From 6 o'clock in the morning until 8 at night they tramped, singing and exultant, through the streets of the camp to the pay office, filed through at the rate of 1,500 an hour, purchased tickets and climbed aboard trains. As they passed through the gates into the station officers handed out discharges.

By a new order of Brigadier General Nicholson, camp commander, officers of the divisional staff were discharged. Field and line officers will be discharged to-morrow, after their commands have been demobilized. Approximately 30 per cent of the officers accepted industrial furloughs, entitling them to fifteen days' leave at full pay until they can obtain employment.

All Physically Examined

Every man of the division was physically examined by 11 o'clock to-day. Less than 130 were held up because of failure to pass tests. According to Captain J. W. Kirkpatrick, medical officer of the 305th Field Artillery, the men register an improvement of 50 per cent in their physical condition.

The last of the division will leave for the city before noon to-morrow. A total of 4,017 men, virtually all of the 153d Field Artillery Brigade, will be discharged.

The Argonne heroes who prefer to take their chances in business represent a wide range of occupations. Corporal Michael Gilfeather, military police, of 189 Lake Street, Brooklyn, was a bartender in pre-war days. He announced his intention of opening an ice cream parlor. Private Vincenzo Bellidino, of B Company, 308th Infantry, was a driver. He is going into the express business, using his home, 189 Washington Avenue, as his office. Private Tony Galono, G Company, 307th Infantry, 37 Mulberry Street, was a bootblack. He said he spent his first few days back in this country looking over a place for a chain of chairs. Private Abraham Gollub, of 730 Garden Street, is going to work at bricklaying independently. Corporal Rube Lassoff, of 106 Ridge Street, a chauffeur, intends purchasing or leasing a taxicab. Of forty men waiting for the home-bound train twelve expressed a determination to use their war acquired vim and "go it alone."

To Learn Trade

Five decided to remain in the army, feeling that conditions in industry for unskilled men are too unfavorable now. They prefer to learn a trade before donning mufti. The men chose branches other than those in which they served. Corporal James M. Scott, of Syracuse, Infantry, asked for Hawaiian service. Private Cornelius Farren, of 60 Herkimer Street, Brooklyn, of C Company, 302d Field Signal Battalion, also wants to see the Orient. Private Earl Lake, of the 305th Infantry, gassed at the Vesle; Private Tony Javino, 91 East Seventh Street, and Private John P. O'Connell, of New Haven, Conn., both

of E Company, 308th Infantry, also re-enlisted.

Others rushed back to civilian life. They left the camp in uniform, but announced that this was their last public appearance in olive drab. The parting of the officers and men was devoid of sentiment. A strong handclasp here and there, a cheer, and it was over. The members of the 302d Field Signal Battalion started the echoes with their cheers for Major Powers, Captain Matthew Hammond and Lieutenant Chapin. Captain Percy Hammond, of 746 Dean Street, commander of Company I, 305th Infantry, glowed under his tanned countenance when the Company I men gave him a lusty farewell.

"When these men landed back in America," said Captain Hammond, "they were fairly stormed by their relatives. And yet not a man was separated from his outfit. When it left he pried loose all his relatives and just tagged on. You could hardly expect them like that to express any emotion."

Demobilization of Army at Home To Be Finished by June 15

War Department to Keep Southern and Western Troops Ready for Service on Border; Can Parade After Discharge

WASHINGTON, May 9.—Commanding generals of the Northeastern, Eastern, Southeastern and Central departments and of Camps Knox, Bragg, Benning, Humphreys, Eustis and Fort Sill were instructed to-day that it is the desire of the War Department to have discharged by June 15 all men drafted or enlisted for the emergency who are eligible for discharge.

The exception of the Southern and Western departments from the order was understood to be due to the fact that the units under the supervision of those departments are largely on duty on the Mexican border and that it, therefore, might not be practicable to release them before June 15.

It was explained at the War Department that the men affected by the order were those whose service has been entirely within the United States and who are now attached to "line organizations of the regular service." Similar instruction will be sent to commanders of each of the twenty-three demobilization centers, but in their cases previous orders regarding the discharge of soldiers within forty-eight hours after their arrival still will be enforced.

Commanders of demobilization camps also were informed that line organizations sent to them all men coming from a given city or community are, as far as practicable, to be discharged on the same day. This is to enable the men to return in a body to their community for such welcome as may be contemplated for them.

Wrist Watches to Stay All Jewelry Popular, National Convention Hears

ATLANTIC CITY, May 9.—Wrist watches for men are in style to stay, according to speakers at the twelfth annual convention of the National Wholesale Jewelers' Association at the session here to-day. The popularity of this type of timepiece began with the war, but peace has brought no abatement of the demand.

There is also an especially big demand for diamonds, while all types of jewelry are so popular that it is likely to be a question of filling orders rather than drumming up trade. The unprecedented demand for jewelry, according to the speakers, is due to high wages and general prosperity.

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The Boy Who Stuck His Foot In

A SMALL boy the other day walked up to one of those splendid marble pillars before the Victory Arch and stuck his foot in. I went over and stooped down and felt of the crust. It was about an inch and a half thick.

Then I stood in the middle of the avenue, all New York boiling and swirling around me, and looked up at The Arch of Victory, massive, majestic, white and heavenly, soaring against the sky—and my heart ached!

Something made me feel suddenly close to the small boy.

What he wanted to know with his foot was what this splendid Victory Arch he had watched his big, brave brothers march under and flags wave under and bands play through four hours was made of; how much it amounted to, how deep the glory had struck in.

I thought what a colossal, tragical, honest monument it was of our victory over the Germans. . . . Forty nations swinging their hats and hurraing and eighty-seven million sullen, unconquered Germans before our eyes in broad daylight making a national existence from now on out of fighting their bills! . . . Eighty-seven million Germans we have all got to devote ourselves nationally to sitting on the necks of six hundred years!

I am not sorry the small boy stuck his foot in. Millions of Americans, though in a politer way, are doing it all this week. We want to poke through to the truth. We want something more than a theatre-property Victory Arch, our soldier boys marching under it as if it were a real one!

We want four and a half billion dollars this week to make it honest to take down our lath and plaster arch and put it up in marble instead.

We make this week a wager to a world—a four and a half billion dollar dare, or cry to God that we are not a superficial people, that the American people will not be put off with a candy victory, all sugar and hurrahs and tears and empty, watery words; that we will chase Peace up, that we will work Victory down into the structure of all nations—into the eternal underpinning of a world.

In the meantime this glorious, alluring, sneering, beckoning Victory Arch, all whipped cream and stone froth, a nation's gigantic tragic angel cake, with its candy guns and its frosting on it, and before our eyes the grim, unconquered souls of eighty-seven million Germans marching through! We will let it stand, haunting us, beckoning us along to a victory no small boy, no Bolsheviki nation, can stick its foot in!



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